

Odys MORAN
NAME

J10370
PRISON NUMBER

CALIFORNIA Medical Facility
CURRENT ADDRESS OR PLACE OF CONFINEMENT

PO BOX 2600 VACAVILLE 95696
CITY, STATE, ZIP CODE.

ORIGINAL

2254	1983
FILING FEE PAID	
Yes	No
HPP MOTION FILED	
Yes	No
COPIES SENT TO	
Court	ProSe

FILED
AUG 25 2008
CLERK, U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA BY <u>RM</u> DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Odys MORAN
(FULL NAME OF PETITIONER)
PETITIONER

v.

Mike Knowles
(NAME OF WARDEN, SUPERINTENDENT, JAILOR, OR AUTHORIZED
PERSON HAVING CUSTODY OF PETITIONER [E.G., DIRECTOR OF THE
CALIFORNIA DEPARTMENT OF CORRECTIONS])

RESPONDENT

and

JERRY BROWN
The Attorney General of the State of
California, Additional Respondent.

'08 CV 1569 JM BLM

Civil No

8-155946

(TO BE FILLED IN BY CLERK OF U.S. DISTRICT COURT)

Sentence Modification

PETITION FOR WRIT OF HABEAS CORPUS

UNDER 28 U.S.C. § 2254
BY A PERSON IN STATE CUSTODY

1. Name and location of the court that entered the judgment of conviction under attack: SUPERIOR COURT OF SAN DIEGO
2. Date of judgment of conviction: FEB 13TH 1997
3. Trial court case number of the judgment of conviction being challenged: SCD 123937
4. Length of sentence: TWENTY-THREE YRS. 100 MONTHS.

5. Sentence start date and projected release date: April 18th 1997.
April 25th 2016. August 22nd 2016.
6. Offense(s) for which you were convicted or pleaded guilty (all counts): False Imprisonment, Robbery, Possession of a Firearm.
PC 236/237 PC 211/2155 PC 12021 + 12022.5 (A)
7. What was your plea? (CHECK ONE)
- (a) Not guilty ☒
- (b) Guilty ☐
- (c) Nolo contendere ☐
8. If you pleaded not guilty, what kind of trial did you have? (CHECK ONE)
- (a) Jury ☒
- (b) Judge only ☐
9. Did you testify at the trial?
- ☐ Yes ☒ No

DIRECT APPEAL

10. Did you appeal from the judgment of conviction in the California Court of Appeal?
- ☒ Yes ☐ No
11. If you appealed in the California Court of Appeal, answer the following:
- (a) Result: Denial
- (b) Date of result (if known): 4-18-98
- (c) Case number and citation (if known): DO-2FS82/SCD 13987
- (d) Names of Judges participating in case (if known) (1) DJ KREMER.
(2) J. NARES. (3) Judge J. Huffman.
- (e) Grounds raised on direct appeal: (1) The Evidence was insufficient in the Juvenile Adjudication (2) A violation of the Due process clause. of the Ex post Facto Law
12. If you sought further direct review of the decision on appeal by the California Supreme Court (e.g., a Petition for Review), please answer the following:
- (a) Result: Denied Twice !!
- (b) Date of result (if known): (1) 1998 AND (2) in March of 08.
- (c) Case number and citation (if known): S-155946.
- (d) Grounds raised: The petitioner cited violations of the 4th 5th 6th 8th and 14th amendments (2) AND A violation of the Due process clause.

13. If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to that petition:

- (a) Result: _____
- (b) Date of result (if known): _____
- (c) Case number and citation (if known): _____
- (d) Grounds raised: _____
- _____
- _____
- _____

COLLATERAL REVIEW IN STATE COURT

14. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the California Superior Court?

☒ Yes ☐ No

15. If your answer to #14 was "Yes," give the following information:

- (a) California Superior Court Case Number (if known): 10-28582
- (b) Nature of proceeding: Writ of Habeas Corpus
- (c) Grounds raised: (1) Due process clause
(2) Insufficient Evidence
- (d) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☒ No
- (e) Result: _____
- (f) Date of result (if known): _____

16. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the California Court of Appeal?

☒ Yes ☐ No

17. If your answer to #16 was "Yes," give the following information:

- (a) California Court of Appeal Case Number (if known): DO-50877
- (b) Nature of proceeding: Writ of Habeas Corpus.
- (c) Names of Judges participating in case (if known) McDonald.
- (d) Grounds raised (1) In RE-Winship 391 US 358, 364 (1970)
US Constitution Amendments 4th 5th 6th 8th and 14th.
2) Apprendi v. New Jersey (2000) Blakely v. Washington Court
- (e) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☒ No
- (f) Result: AFIRMED AND DENIED.
- (g) Date of result (if known): 7-31-07

18. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the California Supreme Court?

☒ Yes ☐ No TWICE !!

19. If your answer to #18 was "Yes," give the following information:

- (a) California Supreme Court Case Number (if known): DO 28512 / S156946.
- (b) Nature of proceeding: petition for Review (Pet), and then
an Evidentiary Hearing WAS Requested.
- (c) Grounds raised: (1) insufficient Evidence.
(2) Due process clause
(3) violation of the Sixth Amendment.
- (d) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☒ No
- (e) Result: _____
- (f) Date of result (if known): _____

20. If you did **not** file a petition, application or motion (e.g., a Petition for Review or a Petition for Writ of Habeas Corpus) with the California Supreme Court, containing the grounds raised in this federal Petition, explain briefly why you did not:

COLLATERAL REVIEW IN FEDERAL COURT

21. Is this your **first** federal petition for writ of habeas corpus challenging this conviction?

☒ Yes ☐ No (If "YES" SKIP TO #22)

- (a) If no, in what federal court was the prior action filed? _____

(i) What was the prior case number? _____

(ii) Was the prior action (CHECK ONE):

☐ Denied on the merits?

☐ Dismissed for procedural reasons?

(iii) Date of decision: _____

- (b) Were any of the issues in this current petition also raised in the prior federal petition?

☐ Yes ☐ No

- (c) If the prior case was denied on the merits, has the Ninth Circuit Court of Appeals given you permission to file this second or successive petition?

☐ Yes ☐ No

CAUTION:

- **Exhaustion of State Court Remedies:** In order to proceed in federal court you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. This means that even if you have exhausted some grounds by raising them before the California Supreme Court, you must first **present all** other grounds to the California Supreme Court before raising them in your federal Petition.
- **Single Petition:** If you fail to set forth all grounds in this Petition challenging a specific judgment, you may be barred from presenting additional grounds challenging the same judgment at a later date.
- **Factual Specificity:** You must state facts, not conclusions, in support of your grounds. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do. A rule of thumb to follow is — state who did exactly what to violate your federal constitutional rights at what time or place.

GROUND FOR RELIEF

22. State *concisely* every ground on which you claim that you are being held in violation of the constitution, law or treaties of the United States. Summarize *briefly* the facts supporting each ground. (e.g. what happened during the state proceedings that you contend resulted in a violation of the constitution, law or treaties of the United States.) If necessary, you may attach pages stating additional grounds and/or facts supporting each ground.

(a) **GROUND ONE:** APPENDIX 4 NEW JERSEY (2000) US
ALMENDAREZ - TORRES 523 US (1998)

Supporting FACTS: THE CONSTITUTION REQUIRES THAT "AND" FACT
THAT INCREASES THE PENALTY FOR A CRIME BEYOND THE
STATORY MAXIMUM OTHER THAN THE FACT OF A PRIOR MUST BE
SUBMITTED TO A JURY "AND PROVED BEYOND A DOUBT" WHICH
WAS NOT DONE IN THE MATTER AT HAND. IN WHICH THE PETITION
ER CONTENDS WAS A CLEAR AND DELIBERATE VIOLATION OF THE
PETITIONERS SIXTH AMENDMENT RIGHT. RESULTING IN THE UPPER
TEEN BEING DOUBLE SIX YEARS TO TWELVE YEARS BY THE
JUDGE WHO WAS AT THAT POINT ACTING ON THE RECOMMEN-
DATION OF THE PROBATION DEPARTMENT. THIS COURT HAS
REPEATEDLY STATED THAT A JUDGE EXCEEDS HIS PROPER
AUTHORITY WHEN INFLECTING A SENTENCE THE JURY'S
VERDICT DOES NOT ALLOW. AS A JURY HAS NOT FOUND
ALL THE FACTS ESSENTIAL TO THE PUNISHMENT. FURTHER-
MORE ITS BEEN STATED THAT "THE SIXTH AMENDMENT
IS NOT A MERE FORMALITY BUT A RESERVATION OF
POWER IN OUR CONSTITUTIONAL STRUCTURE AS WAS

Did you raise GROUND ONE in the California Supreme Court?

☒ Yes ☐ No.

If yes, answer the following:

- (1) Nature of proceeding (i.e., petition for review, habeas petition): Evidentiary
 (2) Case number or citation: S-155946
 (3) Result (attach a copy of the court's opinion or order if available): DENIED

Cont.

(b) **GROUND TWO:** In Blakely v. Washington 397 (US)
2004. 358, 364, 542 US

Supporting FACTS: The Court held that in this case they should follow the rules in Apprendi v. New Jersey in which was stated "other than the fact of a prior conviction" any fact that increases the penalty for a crime, "must be submitted to a jury and proved beyond a doubt". And that a judge may impose a sentence based on sole facts reflected by a jury "or admitted" by the defendant in which case neither was done. The Court goes on to say Quote, "Because the facts supporting the Defendant's 'exceptional sentence' was neither admitted nor found guilty by the jury the sentence was found to be a violation of the 'Sixth amendment'. This Argument has been brought to the attention of the 'Lower Courts' who replied that Apprendi, Blakely, Booker, and Cunningham, did not apply because they are not retroactive, and that the Defendant's case was final years before those cases were decided. Here the Defendant respectfully request the court to explain how the constitutional rights of these four could be violated and restored without prejudice. While the Defendant's 'Sixth Amendment' right remain con-

Did you raise GROUND TWO in the California Supreme Court?

☒ Yes ☐ No.

If yes, answer the following:

- (1) Nature of proceeding (i.e., petition for review, habeas petition): Habeas Corpus
- (2) Case number or citation: 5:155946
- (3) Result (attach a copy of the court's opinion or order if available): Denied

(c) **GROUND THREE:** The United States Supreme Court.
In Cunningham v. California (2007)

Supporting FACTS: The United States Supreme Court
has held that "California's Determinate Sentencing
Law (DSL) has run afoul of the "Sixth Amendment"
Right to trial by Jury and further, more the Court has held
that a conviction is a conviction for the mid-term,
and when a Court makes an additional factual finding
it exceeds the facts found by a Jury thus violating
the Sixth Amendment, AS WAS DONE to the petitioner,
the petitioner now goes on to Request the Court explain
how the upper term of (Court two) could be
added from six years to twelve years without
admitting guilt or being found guilty by the Jury and
allowing a judge to exceed his proper Authority by going
outside of the statutory Maximum of the Law and not be
a Direct violation of the "Sixth Amendment," Right
to trial by Jury? AS WAS DONE in "Appendi v New-
Jersey" and in "Blakes v Washington" and in "Cunningham
v. California. The petitioner now contends that
because these cases are not retroactive, that fact
alone should not be enough to allow the state
Court to violate the United States Constitution
and the Supreme Courts Rulings therein.

Did you raise GROUND THREE in the California Supreme Court?

☒ Yes ☐ No.

If yes, answer the following:

- (1) Nature of proceeding (i.e., petition for review, habeas petition) Exhausted
- (2) Case number or citation: 515594
- (3) Result (attach a copy of the court's opinion or order if available): Denied

- (d) **GROUND FOUR:** The Juvenile Adjudication,
Violates the Ex post Facto Law.

Supporting FACTS: the petitioner contends the Juvenile
Adjudication violates the Ex-post Facto Law,
and continues to a mockery of the 14th Amendment
which guarantees the citizens of this country
"Equal protection of the Law" while hypocritically
telling juveniles they have no rights to trials by jury
which is in direct conflict of the Sixth Amendment.
Furthermore the state has said a judge may impose
the upper team "if" one or more aggravating circum-
stances were found present, in the offense. Even so
these facts may be found present, this should by no
means be grounds "for the state to supersede the rulings
of this court, or any other "Federal ruling". And so
in conclusion the petitioner respectfully request,
this court demand the petitioner to the Superior
Court of San Diego to be Resentenced under California
's (DSL) and be sentenced to the mid-team.
In accordance to the ruling made in "Cunningham
v. California (2007) for the offense the petitioner
is currently convicted for.

Did you raise **GROUND FOUR** in the California Supreme Court?

☒ Yes ☐ No.

If yes, answer the following:

- (1) Nature of proceeding (i.e., petition for review, habeas petition) Evidentiary hearing
- (2) Case number or citation: S-155046
- (3) Result (attach a copy of the court's opinion or order if available): Denied

23. Do you have any petition or appeal **now pending** in any court, either state or federal, pertaining to the judgment under attack?

☐ Yes ☒ No

24. If your answer to #23 is "Yes," give the following information:

(a) Name of Court: _____

(b) Case Number: _____

(c) Date action filed: _____

(d) Nature of proceeding: _____

(e) Name(s) of judges (if known): _____

(f) Grounds raised: _____

(g) Did you receive an evidentiary hearing on your petition, application or motion?

☐ Yes ☒ No

25. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing: _____

(b) At arraignment and plea: _____

(c) At trial: MARY KROCKHART (223 "A" street Suite 903)
SAN DIEGO CA, 92101-4009

(d) At sentencing: MARY KROCKHART (223 "A" street Suite 903)
SAN DIEGO CA, 92101-4009

(e) On appeal: CHRISTOPHER BLAKE 4455 LAUREL ST # SDCA 92104

(f) In any post-conviction proceeding: _____

(g) On appeal from any adverse ruling in a post-conviction proceeding: _____

26. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?

☒ Yes ☐ No

27. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

☐ Yes ☐ No

(a) If so, give name and location of court that imposed sentence to be served in the future:

(b) Give date and length of the future sentence:

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

☒ Yes ☐ No

28. Consent to Magistrate Judge Jurisdiction

In order to insure the just, speedy and inexpensive determination of Section 2254 habeas cases filed in this district, the parties may waive their right to proceed before a district judge and consent to magistrate judge jurisdiction. Upon consent of all the parties under 28 U.S.C. § 636(c) to such jurisdiction, the magistrate judge will conduct all proceedings including the entry of final judgment. The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to consent to a magistrate judge as it will likely result in an earlier resolution of this matter. If you request that a district judge be designated to decide dispositive matters, a magistrate judge will nevertheless hear and decide all non-dispositive matters and will hear and issue a recommendation to the district judge as to all dispositive matters.

You may consent to have a magistrate judge conduct any and all further proceedings in this case, including the entry of final judgment, by indicating your consent below.

Choose only one of the following:

☐ Plaintiff consents to magistrate judge jurisdiction as set forth above.

OR

☒ Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

29. Date you are mailing (or handing to a correctional officer) this Petition to this court: _____

Wherefore, Petitioner prays that the Court grant Petitioner relief to which he may be entitled in this proceeding.

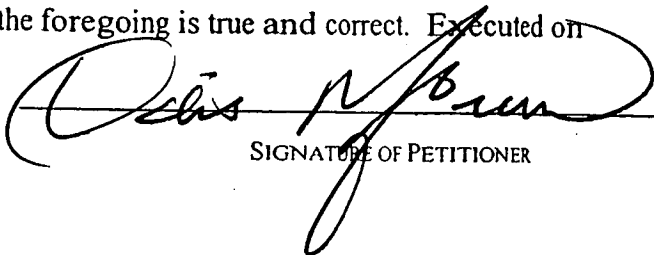


SIGNATURE OF ATTORNEY (IF ANY)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

8-18-08

(DATE)



SIGNATURE OF PETITIONER

Pg 4

17) Cunningham v California (2007)

cont.

Pg 6.

22). Ground One.

DONE IN ALMENDAREZ-TORRES V. US (1998)

Nature of proceeding
" Evidentiary hearing.

Cont.

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GROUND TWO

TO BE VIOLATED? - the petitioner
Again Request. the Court to explain
the Difference between these Four's
Constitutional Rights and the
petitioners.

Habeas Corpus / Evidentiary Hearing.

JS44

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

Odis Moran

Knowles, et al

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Solano
(EXCEPT IN U.S. PLAINTIFF CASES)

FILING FEE PAID	
Yes	No
BY MOTION FILED	
Yes	No
COMPLETED	
Court	Pre-Su

FILED
AUG 25 2008
CLERK, U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA BY <i>[Signature]</i> DEPUTY

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Odis Moran
PO Box 2000
Vacaville, CA 95696
J-10370

ATTORNEYS (IF KNOWN)

'08 CV 1569 JM BLM

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | (For Diversity Cases Only) | | PT | DEF | PT | DEF |
|---|---|---|---|----|-----|
| Citizen of This State | <input type="checkbox"/> 1 <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 <input type="checkbox"/> 4 | | |
| Citizen of Another State | <input type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5 | | |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 <input type="checkbox"/> 6 | | |

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 U.S.C. 2254

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> Marine <input type="checkbox"/> Miller Act <input type="checkbox"/> Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury-Medical Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act 29 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. <input type="checkbox"/> Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395k) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(p)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input checked="" type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights			

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE

Docket Number

DATE 8/25/2008

SIGNATURE OF ATTORNEY OF RECORD

*R. Moley**CR*